

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

IN RE:

Christopher Kwan

Case No.: 09 B 35920

Chapter: 7

Hearing Date: 10/8/09

Debtor(s) Judge Eugene R. Wedoff

NOTICE OF MOTION

TO: Glenn R. Heyman, Interim Trustee, 135 S. LaSalle, Suite 3705, Chicago, IL 60603 by electronic notice through ECF
Christopher Kwan, Debtor(s), 29 Schoenbeck Road, Wheeling, IL 60090
Manny A Aguja, Attorney for Debtor(s), 3144 West Montrose Ave, Chicago, IL 60618 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 10/8/09, at 9:30am, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Eugene R. Wedoff, Bankruptcy Judge, in the courtroom usually occupied by him/her at the Everett McKinley Dirksen Building, 219 South Dearborn, Chicago, Illinois, room 744, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on October 1, 2009 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on October 1, 2009.

/s/ Joel P. Fonferko

Attorney for Movant

Berton J. Maley ARDC#6209399
Gloria C. Tsotsos ARDC# 6274279
Jose G. Moreno ARDC#6229900
Rachael A. Stokas ARDC#6276349
Peter C. Bastianen ARDC#6244346
Joel P. Fonferko ARDC#6276490
Maria A. Georgopoulos ARDC#6281450
Codilis & Associates, P.C.
15W030 North Frontage Road, Suite 100
Burr Ridge, IL 60527
(630) 794-5300
C&A FILE (14-08-17959)

NOTE: Pursuant to the Fair Debt Collection Practices Act you are advised that this law firm is deemed to be a debt collector attempting to collect a debt and any information obtained will be used for that purpose.

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed below, as to the Trustee and Debtor's attorney via electronic notice on October 1, 2009 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on October 1, 2009.

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/s/ Joel P. Fonferko
Attorney for Movant

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MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES ONEWEST BANK FSB FKA INDYMAC BANK, F.S.B. (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 9109 N. Skokie Boulevard, Skokie, IL;
3. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 9/28/09;
4. A Judicial Sale was held on 08/10/2009 ;
5. Due to the completion of the foreclosure sale prior to the filing of the instant case, Debtor no longer has a title interest in the property to transfer to the trustee when the bankruptcy filed and the bankruptcy estate has no interest in the subject property;

6. Debtor is not attempting a reorganization, and to the best of Movant's knowledge no non-exempt equity exists in the subject property, or any equity that does exist is so insubstantial as to be of little or no benefit or burdensome to the estate, so Movant is entitled to relief from the automatic stay pursuant to 11 U.S.C. §362(d);

7. Movant has incurred attorneys fees and/or costs in connection with this bankruptcy proceeding which have been included in the calculation of any default figures quoted herein subject to court approval, including:

\$550.00 for Preparation of Notice and Motion for Relief from the
Automatic Stay, One Court Appearance
\$150.00 for Court filing fee

8. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

WHEREFORE, ONEWEST BANK FSB FKA INDYMAC BANK, F.S.B. prays this Court enter an Order pursuant to 11 U.S.C. §362(d) modifying the automatic stay as to Movant, and for such other and further relief as this Court may deem just and proper.

Dated this October 1, 2009.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Joel P. Fonferko

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